

Remarks

Claims 1-52 are pending. Claims 1-52 have been rejected. Claims 53-58 have been newly added.

Information Disclosure Statement

The Examiner crossed out the U.S. application references on page 3, middle through most of page 5 of the Information Disclosure Statement (IDS) filed on July 27, 2005, as being non-compliant. The Examiner alleged this part of the IDS improperly lists the filing dates of the co-pending applications because they are not required to be listed in the IDS. Applicants respectfully direct the Examiner to 37 CFR 1.98(b)(3), which specifically requires that a U.S. application must be identified by the **inventor, application number, and filing date** (see also MPEP §609). Applicants therefore respectfully request the Examiner to consider the crossed out U.S. application references.

Rejections under 35 U.S.C. § 112, second paragraph

Claims 2, 13, and 24 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Applicants believe the amendments to claims moot these rejections.

Rejections under 35 U.S.C. § 102

Claims 8-11, 19-22, 30-33, 39, 43, 44, 50 and 52 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. application No. 20050149173 by Hunter et al. Applicants believe the 1.131 declaration submitted herewith renders Hunter non-prior art and therefore the rejections are moot.

For the newly added claims 53-58, all of them recite **a coating having a poly(ester amide) (PEA) polymer and at least one low surface energy polymer is biologically benign.**

In contrast, Hunter describes an intravascular device having a polymer material that induces fibrosis between the device and the host tissue when the device is implanted in an animal.

Rejections under 35 U.S.C. § 103

Claims 1-52 are rejected under 35 U.S.C. §103(a) as being unpatentable over Hunter in view of U.S. application No. 2002/0123801 by Pacetti et al. (“Pacetti”).

As mentioned above, Hunter no longer qualifies as prior art. Pacetti describes a coating that includes a polyurethane having a non-polar soft segment that can include hydrocarbons, silicones, fluorosilicones or combinations thereof.

Claim 1 defines a method of forming a coating having a poly(ester amide) (PEA) polymer and a low surface energy, surface blooming polymer, which Pacetti fails to describe or teach. Therefore, claim 1 is patentably allowable over Pacetti. Claims 2-7 depend from claim 1 and are patentable over Pacetti for at least the same reason.

Claim 8 defines a method of forming a coating having a PEA polymer and at least one low surface energy polymer additive. Pacetti fails to describe or teach this element. Therefore, claim 8 is patentably allowable over Pacetti. Claims 9-11 depend from claim 8 and are patentable over Pacetti for at least the same reason.

Claim 12 defines a coating having a PEA polymer and at least one low surface energy polymer. Pacetti fails to describe or teach this element. Therefore, claim 12 is patentably allowable over Pacetti. Claims 13-18 depend from claim 12 and are patentable over Pacetti for at least the same reason.

Claim 19 defines a coating having a PEA polymer and at least one low surface energy polymer additive. Pacetti fails to describe or teach this element. Therefore, claim 19 is

patentably allowable over Pacetti. Claims 20-22 depend from claim 19 and are patentable over Pacetti for at least the same reason.

Claim 23 defines a medical device comprising a coating having a PEA polymer and at least one low surface energy polymer. Pacetti fails to describe or teach this element. Therefore, claim 23 is patentably allowable over Pacetti. Claims 24-29, 34-38, 41, 42, 45-49 and 51 depend from claim 23 and are patentable over Pacetti for at least the same reason.

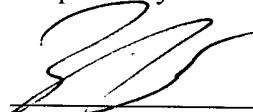
Claim 30 defines a medical device comprising a coating having a PEA polymer and at least one low surface energy polymer additive. Pacetti fails to describe or teach this element. Therefore, claim 30 is patentably allowable over Pacetti. Claims 31-33, 39, 40, 43, 44, 50 and 52 depend from claim 30 and are patentable over Pacetti for at least the same reason.

The undersigned authorizes the examiner to charge any fees that may be required or credit of any overpayment to be made to Deposit Account No. 07-1850.

Withdrawal of the rejection and allowance of the claims are respectfully requested. If the Examiner has any suggestions or amendments to the claims to place the claims in condition for allowance, applicant would prefer a telephone call to the undersigned attorney for approval of an Examiner's amendment. If the Examiner has any questions or concerns, the Examiner is invited to telephone the undersigned attorney at (415) 393-9885.

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Respectfully submitted,



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